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OFFICE OF THE PUBLIC DEFENDER

ANNUAL REPORT

2004

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## PREFACE

The 2003 Annual Report explained the history and administrative system of this Public Defender's Office. The material regarding the establishment, jurisdiction and administrative staffing of each of the sections in the office may be found in that report and will not be repeated in this year's report. Rather, this report will highlight and explain the activities of each of the sections in this office in an effort to provide a better understanding of the quantity and quality of the work being performed by the Public Defender's staff.

## ANALYSIS

### A. CITY COURT/PAROLE

In 2004, this Office was called upon to represent clients in approximately 11,100 cases in the City Court of Rochester. In addition, the attorneys in this section were assigned to represent more than 800 parolees who were charged with violating the conditions of their parole release. That means, on average, each Assistant Public Defender in this section would have been assigned to approximately 1,000 cases during the course of the year. That number of case assignments is **more than double** the recommended maximum caseload as established by the National Legal Aid and Defender's Association. Our City Court staff was involved in defending 100 trials last year. Despite the enormous strain created by a heavy caseload, the results of our trial activity are excellent. More than 66% of our trials were "successful" in that our client was either acquitted of the pending charge or found guilty of a lesser charge.

The number of parolees represented by the Monroe County Public Defender on charges of violating conditions of their release increased from last year. In 2004, the Monroe County Public Defender was assigned to represent 814 parolees. This work included representation of clients at 849 parole hearings. We are particularly proud of the fact that in 212 cases, our attorneys were successful in advocating for the placement of our clients in alternative drug treatment programs. In 2004, 180 clients were placed in the Willard Drug Treatment Program and 32 clients were placed in the High Intensity Incarceration Program (HIIP) at the

Monroe County Jail. Additionally, in 23 cases our attorneys, with the assistance of the Alternative to Incarceration Program, were able to find a community based treatment program for chemical dependency which the Parole Board accepted as an alternative to the reincarceration of our clients. Such placement in treatment programs save both the County Jail and State Department of Corrections considerable money in terms of fewer prison days. It is our hope that the placement of parolees in appropriate treatment programs increases the likelihood that the parolees will successfully control their chemical addiction and eventually become productive members of our community.

Throughout the year our student internship program continued to be successful. Various local colleges send students to our office where, for course credit, they are involved in the interviewing of potential clients, as well as performing other functions of great assistance to our attorneys. Given the tremendous caseload of our attorneys, without the additional assistance provided by this volunteer program, it would be virtually impossible for the attorneys to effectively carry out their assignments.

#### B. JUSTICE COURT

In 2004, approximately 4,200 cases were assigned to our Justice Court Staff of six full-time attorneys. Therefore, each of the newly hired attorneys in the section was assigned to an average of approximately 700 cases. In the busier courts, our caseload is compressed due to the fact that the court is only in session once or twice a week. This means that an attorney may be required to

represent as many as fifty clients during a single court night. Last year our Town Court staff tried 46 cases. In 26 of those 46 cases, our client either had the charges dismissed or was found guilty of a lesser charge.

Last year we continued to utilize volunteer student interns who assist our staff in interviewing clients who come to our office in need of legal representation after their arraignment. This volunteer program enables us to promptly interview our clients and gather the necessary information without needing to use our attorney resources. The volunteer program, coupled with a great deal of effort by our attorney staff, results in the judges releasing the majority of our clients from jail before their next court date, preventing needless pre-trial incarceration.

#### C. FAMILY COURT

In 2004, this office was assigned to represent 2,540 new clients. To put this caseload into a historical perspective, ten years ago the six attorneys in our Family Court Section were assigned to represent approximately 1,300 clients. Last year, each of our eight Family Court attorneys was required to provide representation to approximately 300 clients. That caseload is **two times more** than the **recommended maximum** standards, which suggest that a maximum of 150 cases be assigned to each Family Court attorney per year.

It should be noted that in 2004, we were assigned to represent 66 clients whose parental rights were sought to be terminated by the Department of Social Services. Additionally, we were assigned

to approximately 292 cases in the area of child neglect and abuse and 490 Family Offense cases.

#### D. SUPERIOR COURT

In 2004, we were assigned to approximately 3,100 felony cases. The felony caseload per attorney ratio is approximately 175 new felony cases per attorney. That represents a current case assignment rate which is 45% above National Legal Aid and Defender's Association Standards for caseload maximums.

In 2004, our felony trial staff was involved in 82 trials. In 25 of those cases, our client was acquitted or had the charges dismissed. Additionally, in 23 other cases our client was acquitted of the charged offense and convicted of only a lesser charge. As a result, we were "successful" in almost 60% of our felony trials.

#### E. APPEALS BUREAU

The attorneys in the Appeals Bureau are primarily responsible for representing persons appealing felony convictions and providing assistance to trial court attorneys. Additionally, this Bureau is responsible for handling family court appeals and representing individuals who appear before the court under the Sex Offender Registration Act (SORA) for purposes of registration and classification.

In 2004, the Bureau filed 110 briefs. Additionally, we filed legal papers before the Superior Courts, Appellate Division and Court of Appeals on 181 cases. Some of these cases involve the filing of motions on appeals that were ultimately resolved without

the need for full briefing and oral argument.

Finally, the Bureau has continued to assist in the research, analysis and presentation of trial court cases. This work is instrumental in insuring that our attorneys are able to provide the best possible representation. This work occurs on a variety of levels. Pretrial motions and written requests for jury charge in felony cases are regularly reviewed and edited by attorneys from this Bureau. Additionally, our appellate attorneys researched numerous evidentiary issues and assisted our trial attorneys on other collateral issues which sometimes arise during the course of representation.

#### F. INVESTIGATIVE SECTION

In 2004, the Monroe County Public Defender's Office employed six full-time investigators, one of whom is the Chief Investigator in charge of the section.

The statistics for 2004 are as follows:

	Criminal Trial Parts	Family Court Appeals Court	Total
Investigations/ Interviews	2,481	399	2,880
Subpoenas	667	333	1,000
Other Misc. Matters	272	32	304

From these statistics it is clear that almost 2900 criminal investigations were done by our investigative staff in 2004. The work performed by our investigative staff is reflected in our ability to successfully resolve cases either by trial or disposition for our clients.

### COMMUNITY INVOLVEMENT

I feel it is important to indicate that the staff of this office does a truly outstanding job. Not only are we committed to the service of the indigent accused, but we also want to make a contribution to our community and to agencies or groups who are concerned about those in need. This commitment is reflected in the fact that many members of this office are active members, volunteers, and/or board members in more than 15 agencies and organizations within the community.

Before concluding, I would like to indicate that members of the community are also interested in and take an active role in this office. Since becoming Public Defender in April 1977, I have established a Public Defender Advisory Committee. The individuals on this committee have been of valuable assistance to me in planning to meet the needs of our community. The members of this committee represent the following agencies or organizations: Action for a Better Community; Ibero-American Action League; Jail Ministry; Judicial Process Commission; League of Women Voters; Monroe County Bar Association; Task Force on the Courts; and the Urban League of Rochester.



## CONCLUSION

Each member of the Public Defender's Office is proud of the amount of work done in the past year, but each individual takes a great deal more pride in the quality of the services we provide. We continue to stress respect for the judicial process and absolute integrity in the handling of all cases assigned to this office.

In concluding, it is important to note that the success that we as an office have achieved is due in part to the support given to us by the Monroe County Legislature. We would like to take this opportunity to express our thanks for that support, and we look forward to your support in the future.

PUBLIC DEFENDERS

Charles L. Willis	July, 1968 - Dec., 1969
Nicholas P. Varlan	Jan., 1970 - Dec., 1973
Peter L. Yellin	Apr., 1974 - Jan., 1977
Edward J. Nowak	Apr., 1977 - present

Respectfully submitted for  
The Public Defender's Office

EDWARD J. NOWAK  
Monroe County Public Defender

COURT ACTIVITY SUMMARY 2004

NEW DEFENDANTS..... 22,804

FELONY..... 1,448

FELONY (Drug A and B).. 563

FELONY (VFO)..... 1123

MISDEMEANOR.....10,677

VIOLATION..... 3,637  
(City and Justice)

PROBATION VIOLATION.... 578  
(Superior)

PROBATION VIOLATION.... 914  
(City and Towns)

APPEALS..... 286

FAMILY COURT..... 2,546

PAROLE..... 814

FUGITIVES..... 81

SORA..... 81

SORA RECLASSIFICATIONS. 137

PLEAS AS CHARGED..... 3818

FELONY..... 454

MISDEMEANOR..... 2,599

VIOLATION..... 765

PLEAS TO LESSER

FELONIES..... 1444

To Lesser Felony..... 897

To Misdemeanor..... 139

To Misdemeanor..... 408  
(Local Ct.)

SENTENCES:

JAIL..... 4035

PLEAS TO LESSER (Con't)

MISDEMEANORS..... 3,111

To Lesser Misd..... 800

To Violation..... 2,311

CLOSED CASES: [OTHER]:

A.C.D..... 2,589

PRIVATE ATTY..... 490

ASSIGNED COUNSEL..... 2,392

W/D D.A..... 1,505

DIS'D ON MOTION..... 1,689

NO BILL BY GRAND JURY..... 327

TRIALS..... 228

FELONY..... 82

MISDEMEANOR..... 104

VIOLATION..... 42

FINDING AFTER TRIAL

GUILTY AS CHARGED  
(or to part of indict.  
when highest court)..... 82

GUILTY TO LESSER  
(or to part of indict.  
when lesser court)..... 66

NOT GUILTY..... 66

TRIAL ORDER OF DISMISSAL..... 11

HUNG JURY OR MISTRIAL..... 3

FELONY.....	684
MISDEMEANOR.....	3,351
PROBATION.....	1,640
FELONY.....	636
MISDEMEANOR.....	1004
PROBATION & JAIL.....	315
FELONY.....	189
MISDEMEANOR.....	126
COND. DISCHARGE.....	2,917
UNCOND. DISCHARGE.....	30
YOUTHFUL OFFENDER.....	268
FELONY.....	91
MISDEMEANOR.....	177
<u>APPEALS CASES CLOSED</u> .....	146
<u>APPEALS PENDING</u> .....	474
<u>BRIEFS FILED</u> .....	110
<u>FAMILY COURT CLOSED</u> .....	2,190
<u>PAROLE HEARINGS</u> .....	849
<u>PAROLE CASES CLOSED</u> .....	778

PUBLIC DEFENDER STAFF  
(as of 4/1/05)

Administration

Nowak, E.	Public Defender
Shiffirin, B.	1 <sup>st</sup> Asst. Pub. Def.
Lonardo, C.	Conf. Asst. to the Public Defender
Prescott, M.	Exec. Secretary to the Public Defender
Colon, M.	Receptionist-Bilingual
Rivera, N.	Receptionist-Bilingual

Superior Court

Brazill, R.	2 <sup>nd</sup> Asst. Pub. Def.
Davis, T.	Spec. Asst. (Non-VFO Assignments)
Russell, D.	Spec. Asst. (A&B Drug Felony Assignments)
Jacobs, J.	Spec. Asst. (VFO Assignments)
Clark, M.	Spec. Asst. (Superior Court Supervisor)

Appeals

Lamb, P.	Secretary	DuBrin, D.	Spec. Asst. (Appeals)
Li Muti, F.	Secretary	Hunt, S.	Secretary
Bailey, K.	Asst. Pub. Def.	Davison, M.	Asst. Pub. Def.
Bartus, K.	Asst. Pub. Def.	Dolan, E.	Asst. Pub. Def.
Bradley, J.	Asst. Pub. Def.	Donaher, T.	Asst. Pub. Def.
Burger, A.	Asst. Pub. Def.	Eckert, J.	Asst. Pub. Def.
Cianca, J.	Asst. Pub. Def.	McDonough, K.	Asst. Pub. Def. (Job Share)
Doran, M.	Asst. Pub. Def.	Somes, J.	Asst. Pub. Def. (Job Share)
Hill, W.	Asst. Pub. Def.	Villa, Y.	Asst. Pub. Def.
Moll, J.	Asst. Pub. Def.		
Ratchford, B.	Asst. Pub. Def.		
Sartori, S.	Asst. Pub. Def.		
Switzer, E.	Asst. Pub. Def.		
Teifke, E.	Asst. Pub. Def.		
Vitale, A.	Asst. Pub. Def.		

### City Court

Paperno, J.	Special Assistant
Cook, K.	Secretary
DeMonte, J.	Secretary
Allen, F.	Invest. Asst.
Warner, S.	Invest. Asst.

Buitrago, M.	Asst. Pub. Def.
Carling, A.	Asst. Pub. Def.
(Vacant)	Asst. Pub. Def.
Karnyski, K.	Asst. Pub. Def.
Kennedy, C.	Asst. Pub. Def.
Lopez, M.	Asst. Pub. Def.
Maure, H.	Asst. Pub. Def.
Staropoli, L.	Asst. Pub. Def.
Stubbe, J.	Asst. Pub. Def.
Welch, E.	Asst. Pub. Def.
Willkens, M.	Asst. Pub. Defl
Winward, T.	Asst. Pub. Def.

### Family Court

Guglin, T.	Special Assistant
Stephens, E.	Secretary
Ciaccia, C.	Paralegal (Job Share)
Lucania, S.	Paralegal (Job Share)

Bayer, P.	Asst. Pub. Def.
Fine, A.	Asst. Pub. Def.
Lacagnina, M.	Asst. Pub. Def.
Redfield, C.	Asst. Pub. Def.
Turner, R.	Asst. Pub. Def.
Stern, J.	Asst. Pub. Def.
Wirley, B.	Asst. Pub. Def.

### Justice Court

Duguay, D.	Special Assistant
Morley, L.	Secretary
Rivers, J.	Secretary
Camacho, M.	Invest. Asst.
Sands, K.	Invest. Asst.

Chamblee, M.	Asst. Pub. Def.
Griffin, J.	Asst. Pub. Def.
Hill, J.	Asst. Pub. Def.
Houghton, K.	Asst. Pub. Def.
Meyer, M.	Asst. Pub. Def.
Scalia, D.	Asst. Pub. Def.

### Investigations

DuMont T.	Chief Investigator
Brugnoni, J.	Spec. Urban Inv.
Johnson, J.	Spec. Urban Inv.
Pagan, G.	Spec. Urban Inv.
Ramos, A.	Spec. Urban Inv.
Swift, L.	Spec. Urban Inv.

### Alternatives to Incarceration

Crabb, S.	ATI Worker
Begley, J.	ATI Worker